

ESTTA Tracking number: **ESTTA770883**

Filing date: **09/15/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Chicago Cubs Baseball Club, LLC
Granted to Date of previous extension	09/18/2016
Address	1060 West Addison Street Chicago, IL 60613 UNITED STATES
Attorney information	Mary L. Kevlin / Robert J. English Cowan, Liebowitz & Latman, P.C. 114 West 47th Street New York, NY 10036-1525 UNITED STATES rje@cll.com, mlk@cll.com, las@cll.com, njh@cll.com, trademark@cll.com Phone:212-790-9200

### Applicant Information

Application No	86615893	Publication date	03/22/2016
Opposition Filing Date	09/15/2016	Opposition Period Ends	09/18/2016
Applicant	Ctuit Inc. 773 San Marin Drive, Suite 2320 Novato, CA 94945 UNITED STATES		

### Goods/Services Affected by Opposition

<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Business consultation for restaurants in the field of evaluation and implementation of labor, food, and beverage cost control practices and solutions and business operations, excluding the evaluation and implementation of computer hardware and software</p>
<p>Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Application service provider featuring software for providing an online data management system in the fields of data polling, financial analysis and reporting, general business intelligence and decision support, transaction processing to upload transactional data, statistical analysis, production of dashboards, reports, and email notifications, extraction of sales and labor data; application service provider, namely, developing, providing, hosting, reporting, managing, and maintaining software, websites, and databases of others in the fields of restaurants, hospitality and retail; computer technology support services, namely, help desk services; Application service provider featuring software for providing an online data management system in the fields of extraction of accounting data; Application service provider featuring software for providing an online data management system in the fields of inventory control and extraction of inventory data; Application service provider featuring software for providing an online data management system</p>

in the fields of labor scheduling and data integration; Software as a service (SaaS) services featuring software for extraction of accounting, inventory, sales and labor data, for providing an online data management system in the fields of data polling, inventory, accounting and financial data analysis and reporting, for labor and general business intelligence and decision support, for transaction processing, to upload transactional data, for statistical analysis, for production of dashboards, reports, and email notifications, for extraction of sales and labor data, for providing an online data management system in the fields of labor scheduling and data integration; consulting on restaurant management computer software solutions; providing professional services to restaurants, namely, the evaluation and implementation of computer software systems for the purpose of labor, food, beverage cost control practices

## Grounds for Opposition

Other	see attached pleading
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Attachments	C CTUIT NOO.pdf(66943 bytes ) C CTUIT - Letter to Commissioner.pdf(57956 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert J. English/
Name	Mary L. Kevlin / Robert J. English
Date	09/15/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 86/615,893

Filed: April 30, 2015

Published: March 22, 2016

For Mark: C CTUIT (Stylized)

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CHICAGO CUBS BASEBALL CLUB, LLC,	:	Opposition No.
	:	
Opposer,	:	
	:	
v.	:	<b><u>NOTICE OF OPPOSITION</u></b>
	:	
CTUIT INC.,	:	
	:	
Applicant.	:	
	:	
-----X		
Commissioner for Trademarks		
Attn: Trademark Trial and Appeal Board		
P.O. Box 1451		
Alexandria, VA 22313-1451		

Opposer, Chicago Cubs Baseball Club, LLC (“Opposer”), a Delaware limited liability company with offices at 1060 West Addison Street, Chicago, Illinois 60613, believes that it will



be damaged by registration of the stylized mark C CTUIT as shown here:

(“Applicant’s Mark”) and in Application Serial No. 86/615,893 (the “Application”) for “Business consultation for restaurants in the field of evaluation and implementation of labor, food, and beverage cost control practices and solutions and business operations, excluding the evaluation and implementation of computer hardware and software” in International Class 35, “Application service provider featuring software for providing an online data management

system in the fields of data polling, financial analysis and reporting, general business intelligence and decision support, transaction processing to upload transactional data, statistical analysis, production of dashboards, reports, and email notifications, extraction of sales and labor data; application service provider, namely, developing, providing, hosting, reporting, managing, and maintaining software, websites, and databases of others in the fields of restaurants, hospitality and retail; computer technology support services, namely, help desk services; Application service provider featuring software for providing an online data management system in the fields of extraction of accounting data; Application service provider featuring software for providing an online data management system in the fields of inventory control and extraction of inventory data; Application service provider featuring software for providing an online data management system in the fields of labor scheduling and data integration; Software as a service (SaaS) services featuring software for extraction of accounting, inventory, sales and labor data, for providing an online data management system in the fields of data polling, inventory, accounting and financial data analysis and reporting, for labor and general business intelligence and decision support, for transaction processing, to upload transactional data, for statistical analysis, for production of dashboards, reports, and email notifications, for extraction of sales and labor data, for providing an online data management system in the fields of labor scheduling and data integration; consulting on restaurant management computer software solutions; providing professional services to restaurants, namely, the evaluation and implementation of computer software systems for the purpose of labor, food, beverage cost control practices” (collectively with the Class 35 services, “Applicant’s Services”), and having been granted extensions of time to oppose up to and including September 18, 2016, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CHICAGO CUBS MAJOR LEAGUE BASEBALL club.

2. Since long prior to April 30, 2015, Applicant's constructive first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors, have used marks comprising or containing the letter C, including, without limitation, various

distinctive C stylizations, including, but not limited to, the following:



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, and



, alone or with other word,

letter and/or design elements ("Opposer's C Marks"), in connection with baseball games and exhibition services and a wide variety of goods and services, including, without limitation, computer application programs; computer game programs; restaurant services; food and beverage concession services; apparel; toys and sporting goods; paper goods and printed matter and novelty items.

3. Opposer owns U.S. federal registrations for Opposer's C Marks in International Classes 6, 9, 11, 14, 16, 18, 20, 21, 24, 25, 26, 28, 30, 34 and 41; namely, 869,838; 1,042,652; 1,183,876; 1,297,664; 1,536,262; 1,538,033; 1,538,193; 1,612,016; 1,916,572; 2,506,407; 2,667,880; 3,231,135; 3,320,037; 3,320,038; 3,320,039; 3,320,040; 3,326,192; 3,395,907; 3,403,043; 3,403,046; 3,545,454 and 3,854,382. Registration Nos. 869,838; 1,042,652; 1,183,876; 1,297,664; 1,536,262; 1,538,033; 1,538,193; 1,612,016; 2,506,407; 2,667,880; 3,231,135; 3,320,037; 3,320,038; 3,320,039; 3,320,040; 3,326,192; 3,395,907;

3,403,043; 3,403,046 and 3,545,454 are incontestable. Registration No. 1,916,572 is partially incontestable.

4. Since long prior to April 30, 2015, Applicant's constructive first use date, Opposer and its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's C Marks, including, but not limited to, computer application programs; computer game programs; restaurant services; food and beverage concession services; apparel; toys and sporting goods; paper goods and printed matter and novelty items, and have offered such goods and rendered such services in commerce.

5. As a result of the extensive sales and promotion of its goods and services bearing or offered in connection with Opposer's C Marks, Opposer has built up highly valuable goodwill in Opposer's C Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On April 30, 2015, Applicant filed the Application for Applicant's Mark for Applicant's Services, based on an intent to use.

7. Upon information and belief, Applicant did not use Applicant's Mark for the services covered in the Application in United States commerce prior to its constructive first use date of April 30, 2015.

8. The services covered by the Application are closely related to the goods and services offered in connection with Opposer's C Marks.

9. The most prominent component of Applicant's Mark contains a stylized C element that is virtually identical to Opposer's C Marks as shown below:



10. Applicant's Mark so resembles Opposer's C Marks as to be likely, when used in connection with Applicant's services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard Mandel and Robert J. English (members of the bar of the State of New York) and the

firm Cowan, Liebowitz & Latman, P.C., 114 West 47th Street, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
September 15, 2016

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.  
Attorneys for Opposer

By: /Robert J. English/

Mary L. Kevlin  
Richard S. Mandel  
Robert J. English  
114 West 47th Street  
New York, New York 10036  
(212) 790-9200



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 15, 2016, I caused a true and complete copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney E. Lynn Perry, Esq., Perry IP Group A.L.C., 900 Larkspur Landing Circle, Suite 226, Larkspur, CA 94939 and to the Correspondent of Record, Margaret McHugh, Kilpatrick Townsend & Stockton LLP, 2 Embarcadero Ctr. Fl.8, San Francisco, CA 94111.

Dated: New York, New York  
September 15, 2016

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/Robert J. English /  
Robert J. English



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**Robert J. English**  
(212) 790-9215  
rje@cll.com

September 15, 2016

**By Electronic Filing**

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: Chicago Cubs Baseball Club, LLC  
Notice of Opposition Against  
CTUIT Inc.  
Application to register  
**C CTUIT (Stylized)**  
Ref. No. 21307.011

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/615,893, published in the Official Gazette on March 22, 2016. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$600 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Robert J. English/  
Robert J. English

Enclosures

cc: Ms. Diane Kovach (w/encs.)  
Mary L. Kevlin, Esq. (w/encs.)